

REMARKS

Amendments to the Claims

As requested by the Examiner, Applicant has canceled, without prejudice, claims 1-13 and 19-26, drawn to nonelected subject matter. Applicant reserves the right to pursue canceled subject matter in an any application that claims priority herefrom.

Applicant has amended claim 14 in accordance with the recommendations of the Examiner. Support for the amendments is found throughout the specification at, *e.g.*, page 6, line 4 to page 7, line 26, the figures as filed, and in claim 15 as originally filed.

Applicant has canceled claim 15, incorporating the subject matter thereof in claim 14.

Applicant has amended claims 16 and 18 to have them correctly depend from claim 14.

As discussed with the Examiner, Applicant has added claims 37-49, drawn to an egg carton with a two-way locking mechanism of claim 14, and a method of locking a container having a two-way locking mechanism. Each of independent claims 37 and 45 recite, among other things, the configuration of the two-way locking mechanism of claim 14. Support for the added claims is found throughout the specification as filed, for instance, on page 4, lines 9-29; page 5, lines 18-23; page 6, line 4 to page 8, line 24; and page 9, lines 23-26.

Applicant submits that the amendments and new claims constitute no new matter.

In sum, claims 14, 16-18, and 37-49 are pending.

The Examiner's Interview

Applicant appreciates the Examiner's courtesy shown during the telephone interview on December 20, 2006, with Daniel Hulseberg and Kimberley Gavin, Applicant's representatives. In accordance with § 713.04 of the MPEP, Applicant sets forth the substance of the interview as follows:

During the interview, the participants discussed the pending claims, with particular attention directed to independent claim 14. The prior art of record was discussed, including the Examiner's interpretation of U.S. Patent No. 3,735,917 issued to Warburton. During the interview, the Examiner suggested possible claim amendments to distinguish over the cited prior art. In essence, the Examiner proposed incorporating the subject matter of claim 15 into independent claim 14. The Examiner indicated that the claims, as amended by his proposal, would likely overcome the anticipation and obviousness rejections (discussed below), and be deemed allowable.

A follow up call was held with the Examiner on December 22, 2006, wherein the Examiner and Mr. Hulseberg further discussed proposed claim language. The Examiner agreed to claim 14, as presently amended above. Moreover, the Examiner indicated that additional claims directed to an egg carton with the two-way locking mechanism of claim 14, and a method of locking a container having the two-way locking mechanism of claim 14, would be considered at this time. To that end, Applicant provides the above Listing of Claims, now drawn to a two-way locking mechanism, an egg carton with a two-way locking mechanism, and a method for locking a container having a two-way locking mechanism.

THE OFFICE ACTION

The Rejection Under 35 U.S.C. § 102(b)

Claims 14-16 Are Not Anticipated By Warburton

In the Office Action dated October 5, 2006, the Examiner maintained the rejection of claims 14-16 as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 3,735,917 issued to Warburton ("Warburton"), for the reasons previously set forth in the Office Action dated April 7, 2006. The Office Action notes that Applicant's remarks made in the response mailed September 7, 2006 have been considered but are not persuasive.

Particularly, the Examiner believes that Applicant's arguments previously submitted are directed to the orientation of the recess surface **20**, and not to the orientation of the latching bar **22**, which the Examiner identified as meeting the limitation of the button. The Examiner refers to Figure 3 of Warburton and his hand-written

comments thereon. The Examiner believes that it is clear that the latching bars **22** (the button) disposed on the locking flap extend outwardly so as to extend into closing apertures **23** of the lid allowing the detent edge **17** to engage the latching bar **22**.

Moreover, the Examiner contends that the latching bar **22** extends outwardly as is claimed, and further notes the inwardly extending member of the outer closure mechanism of the lid is both received in the inwardly recessed pocket of the inner closure mechanism of the locking flap and as it extends inwardly, *i.e.*, opposite the direction of the outwardly extending latching bar **22**. The Examiner therefore believes the claim is anticipated by Warburton.

Applicant respectfully submits that claim 14 is not anticipated by Warburton, since Warburton does not disclose each and every feature of independent claim 14. To expedite allowance of independent claim 14, however, Applicant has amended claim 14 in accordance with the recommendation of the Examiner. For example, claim 14 now recites, among other things, that “the outwardly extending member of the inner closure mechanism of the locking flap is aligned above the inwardly extending member of the lid when the inwardly extending member of the lid is received by the inwardly recessed pocket.” As recognized by the Examiner, the prior art of record does not disclose each and every feature of the two-way locking mechanism as claimed. Hence, independent claim 14 is allowable over the prior art of record.

Claim 16 depends from claim 14 and is allowable at least for the reasons set forth above.

Since Warburton does not disclose at least these features, Applicant respectfully requests that the rejection of claims 14-16 under 35 U.S.C. § 102(b) be withdrawn.

The Rejection Under 35 U.S.C. § 103(a)

Claims 17 And 18 Are Not Obvious Over Warburton In View Of Hartman Or Artz

In the Office Action dated October 5, 2006, the Examiner has maintained the rejection of claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Warburton in view of U.S. Patent No. 3,259,294 issued to Hartman (“Hartman”), and the rejection of claim 18 as unpatentable over Warburton in view of U.S. Patent No. 3,567,107 issued to

Artz for the reasons made of record in the prior Office Action dated April 7, 2006. Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations.” MPEP § 2143.

For the reasons stated above, the pending claims are allowable over the prior art of record. That is, and as recognized by the Examiner, none of the prior art, individually or in combination, discloses or suggests the two-way locking mechanism as recited in independent claim 14. At least for this reason, claim 14, and any claims depending therefrom, are allowable. Thus, Applicant respectfully requests that the rejection of claims 17-18 under 35 U.S.C. § 103(a) be withdrawn.

By this amendment, Applicant has added new claims 37-44, drawn to an egg carton with a two-way locking mechanism, and claims 45-49, drawn to a method of locking a container having a two-way locking mechanism. For the reasons set forth above, and as recognized by the Examiner, Applicant respectfully submits that these newly added claims are also allowable over the prior art of record.

Formal Request for Interview

Applicant submits that the present application is in condition for allowance at least for the reasons set forth herein. If the present application is not considered to be in condition for allowance by the Examiner, and pursuant to M.P.E.P. § 713.09, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record. Applicant's Attorney, Daniel J. Hulseberg, may be reached by telephone at (212) 408-2594 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

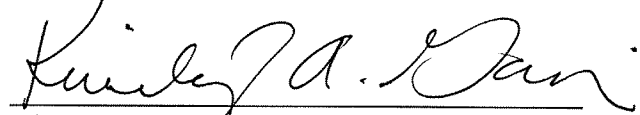
Conclusion

On the basis of the foregoing Remarks, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. This application is believed to be in condition for timely allowance.

Applicant submits that this Response and amendments raises no new issues for consideration or necessitates any additional search of the art by the Examiner because all of the elements and their relationships were earlier claimed. This Response should therefore allow for immediate action by the Examiner.

Applicant believes that no fee is due in connection with the filing of this Response. However, Applicant authorizes, in the Fee Transmittal Form, the Director to charge payment of any additional fees or credit any overpayment associated with this Response to Deposit Account No. 02-4377.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kimberley A. Gavin", written over a horizontal line.

Kimberley A. Gavin, Reg. No. 51,723
Agent for Applicant

BAKER BOTTS L.L.P.
Customer No. 28763